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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,184	03/11/2004	Kenneth Lowe	7561.00	4953
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Thomas P. Liniak Liniak, Berenato & White Suite 240 6550 Rock Spring Drive Bethesda, MD 20817				
			EXAMINER	
			CHEUNG, VICTOR	
			ART UNIT	PAPER NUMBER
			3714	
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			08/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,184

Applicant(s)

LOWE, KENNETH

Examiner

Victor Cheung

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they include figures of poor line quality or shading that makes the figures unclear (see Figures 3-22). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 13, 19, 20, and 21 are objected to because of the following informalities:

Claim 13, Line 14; Claim 19, Line 3; Claim 20, Line 3; Claim 21, Line 3: “selected emotional state” should be --one or more selected emotional states--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11, 23, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11, 23, and 40 have limitations including an external device selected from PET, CAT, MRI, and GSR. Each of the members in this group are methods or techniques used to gather data and do not include any apparatus or device. It is unclear how the external device of the claims comprises these methods.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5-32, 34-43, 47, and 51-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Obrador (US Patent No. 6,585,521).

Re Claim 1: Obrador discloses a method of categorizing electronically recallable media comprising presenting a particular user with media samples possessing subject matter containing sensory stimuli (Col. 3, Line 65-Col. 4, Line 3), permitting the particular user to provide personal responses to the sensory stimuli of the media samples (Col. 4, Lines 3-5), determining from the personal responses whether the media samples evoke a selected emotional state in the particular user (Col. 4, Lines 9-12), and assigning media samples evoking the selected emotional state in the particular user to an electronically recallable set, the electronically recallable set being labeled with an emotional state identifier representative of the selected emotional state (Col. 4, Lines 9-44).

Re Claims 2-3 and 5: Obrador discloses electronically presenting the particular user with a visual sample via a display unit and an audio sample via an output unit (Col. 2, Lines 15-20).

Re Claim 6: Obrador discloses storing the media samples in an electronic database (Col. 2, Line 62-Col. 3, Line 11).

Re Claim 7: Obrador discloses that the particular user can manually determine if the media samples evoke the selected emotional state (Col. 3, Lines 22-24).

Re Claim 8: Obrador discloses an outside evaluator determining from the personal responses whether the media samples evoke the selected emotional state in the particular user (Col. 3, Lines 37-55).

Re Claim 9: Obrador discloses determining whether the personal responses meet a predefined criterion for evoking the selected emotional state in the particular user (Col. 2, Lines 43-61; Col. 3, Lines 25-35).

Re Claim 10: Obrador discloses physiological and/or physical responses of the particular user and the predefined criterion comprises predetermined physiologic and/or physical levels, wherein the method comprises measuring and/or recording the physiological and/or physical responses via an external device (Col. 3, Lines 37-55).

Re Claim 11: Obrador discloses the external device comprising a member selected from EEG electrodes, PET, CAT scan, and MRI (Col. 3, Lines 52-53).

Re Claim 12: Obrador discloses providing a computer program for categorizing the media samples into the electronically recallable set (Col. 5, Lines 10-23).

Re Claims 13-24: Note that claims 13-15, 17-24 are drawn to the same methods of claims 1-3 and 5-12, respectively, except that claims 13-15 and 17-24 include limitations to one or more emotional states and one or more recallable sets.

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Obrador discloses detecting a plurality of emotions and a plurality of sets (Col. 4, Lines 30-34).

Re Claim 25: Obrador discloses a method of evoking an emotional state in a particular user through selective presentation of media samples comprising providing an electronically recallable set of self-selected media samples possessing subject matter containing sensory stimuli, the media samples being custom selected by a particular user for evoking a selected emotional state in the particular user, and electronically presenting the particular user with the media samples at a selected time to evoke the selected emotional state in the particular user. (Col. 4, Lines 34-38).

Re Claim 26: Obrador discloses the method of providing an electronically recallable set as discussed in claim 1 above.

Re Claim 27: Obrador discloses selecting the electronically recallable set to effect the electronic presentation of the media samples (Col. 4, Lines 34-38).

Re Claim 28: Obrador discloses providing a computer program for categorizing the media samples into the electronically recallable set (Col. 5, Lines 10-23).

Re Claim 29: Obrador discloses the method of providing an electronically recallable set as discussed in claim 13 above.

Re Claim 30: Obrador discloses the method including labels with corresponding emotional state identifiers (Col. 5, Lines 44-48).

Re Claims 31-32 and 34: Obrador discloses presenting with a visual sample and an audio sample as discussed in claims 2-3 and 5 above.

Re Claim 35: Obrador discloses storing the media samples in an electronic database as in claim 6 above.

Re Claim 36: Obrador discloses the user determining if the media samples evoke the selected emotional state as in claim 7 above.

Re Claim 37: Obrador discloses an outside evaluator as in claim 8 above.

Re Claims 38-40: Obrador discloses the predefined criterion, physiological and/or physical responses, and external device as in claims 9-11 above.

Re Claim 41: Obrador discloses the selected time comprising a period immediately after the particular user successfully completes a designated task of choosing the desired emotional state (Col. 5, Lines 51-55).

Re Claim 42: Obrador discloses selecting the electronically recallable set to effect the electronic presentation of the media samples as in claim 27.

Re Claim 43: Obrador discloses providing a computer program as in claim 28 above.

Re Claim 47: Obrador discloses the selected time comprising a period immediately after completing a designated task, as in claim 41 above.

Re Claim 51: Note that claim 51 includes limitations of a computer readable program for performing the presenting and recalling methods found in claims 1, 25, and 26.

Obrador discloses a computer readable program for implementing the methods (Col. 5, Lines 10-23).

Obrador discloses the computer readable program causing the computer to display a category entry field for the user to select and input a desired category or categories (Col. 5, Lines 42-55).

Re Claim 52: Obrador discloses a computing device, an input device, an output device, data storage, and a computer program for compiling electronically recallable sets of media customized for evoking corresponding emotional states in a particular user (Figs. 1A-2).

Claim Rejections - 35 USC § 103

7. Claims 4, 16, 33, 44, 45, 48, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obrador (US Patent No. 6,585,521) in view of Blazey et al. (6,293,904).

Re Claims 4, 16, and 33: Obrador discloses the use of audio-visual stimuli.

However, Obrador does not specifically disclose presenting the user with an olfactory sample.

Blazey et al. teach a system of presenting stimuli to a user and determining the response of the user comprising visual and auditory stimuli as well as olfactory stimuli (Col. 5, Lines 27-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an olfactory stimuli such that the user is able to react with a variety of different senses.

Re Claims 44 and 48: Obrador does not specifically disclose the selected time comprising a period immediately after the particular user has exhibited positive behavior modification.

Blazey et al. teach that images presented can change, transform, or be modified to include additional images if the user achieves a certain level of calmness (Col. 20, Lines 1-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to present the media sample after a behavior modification has taken place so that the user is apprised that a new level of behavior has been reached and additionally to enhance the behavior modification process.

Re Claims 45 and 49: Obrador does not specifically disclose the selected time is during a psychological counseling session.

Blazey et al. teach that presenting imagery is effective during therapeutic sessions (Col. 2, Lines 7-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the selected time during a psychological counseling session to effect the mood of a user.

Note additionally that this limitation of “during a psychological counseling session” constitutes an intended use of the invention and the prior art only need to be capable of performing the method.

8. Claims 46 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obrador (US Patent No. 6,585,521) in view of Manico et al. (US Patent No. 6,527,700).

Re Claims 46 and 50: Obrador does not specifically disclose the presenting step repeated until the particular user reaches the selected emotional state.

Manico et al. teach managing a user's emotional state by presenting images including presenting images and monitoring the user's condition repeatedly until the user reaches the desired emotional state (Col. 6, Lines 31-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the presenting step until the user reaches the selected emotional state, thereby ensuring that the invention or presenting the stimuli to evoke the selected emotion in the user is accomplished.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zaltman (USPN 6,315,569) discloses a method including presenting stimuli to a user and having the user describe the stimuli, including emotions that are elicited.

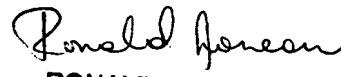
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Cheung whose telephone number is (571) 270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC
Victor Cheung
August 6, 2007


RONALD LANEAU
PRIMARY EXAMINER
8/9/07